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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,095	08/26/2003	Fumiharu Ochiai	13425.38US01	2751
23552	7590	07/06/2004	EXAMINER	
MERCHANT & GOULD PC			CULBRETH, ERIC D	
P.O. BOX 2903			ART UNIT	
MINNEAPOLIS, MN 55402-0903			PAPER NUMBER	

3616

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/648,095	<b>Applicant(s)</b> OCHIAI ET AL.	
	<b>Examiner</b> Eric D Culbreth	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/26/03</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892 or initialed by the examiner on form PTO-1449, they have not been considered.

This refers to the Japanese reference cited on page 1 of the specification.

### ***Drawings***

2. The drawings are objected to because of the following informalities. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

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applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

a. Reference numeral 51A (page 5, line 16) is not on the drawings. (Reference numeral A51 is on the drawings. These should be consistent. For instance, A51 is used at page 6, line 17.)

b. Similarly, 2A (page 5, line 20) is A2 on the drawings. Note also page 5, line 26.

c. Throughout page 8 and the drawings, A5 and 5A are used interchangeably.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the features of claims 3-6,8 and 10 (the rivet) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted

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by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

4. The disclosure is objected to because of the following informalities: The specification is replete with incorrect grammar and incomplete sentences, some of which are listed below. The specification should be carefully reviewed and rewritten where needed.

Appropriate correction is required.

- a. On page 1, line 19 "in case" should be "in the case".
- b. On page 1, line 19, "other" should be "another".
- c. On page 1, line 21 "widow" should be "window".
- d. On page 2, line 6 "bolt fasten" is not clear.
- e. Page 2, lines 13-15 are an incomplete sentence.
- f. Page 3, lines 14-17 are an incomplete sentence and contradictory.
- g. Page 4, line 24 to page 5, line 1 is an incomplete sentence.
- h. On page 5, line 10 "is combined" is unclear.
- i. On page 7, line 2, it is incorrect to state that the work position becomes higher (it becomes lower).

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: There is no support in the specification for claims 3-6 and 8.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 6-7 there is no antecedent basis for "the fitting to fix the bracket" (the airbag is fixed by the fitting previously recited).

In claim 1, lines 7-8 the recitations of said airbag "attached to and housed in the vehicle body" are nonpositive (i.e., the claim language assumes the airbag has been previously recited in the claim as attached to and housed in the vehicle body).

In claim 2, lines 1-2 it is not clear what is meant by a "fitted" hole.

In claim 2, line 2 it is not clear what is meant by a protruded portion which can be fitted.

As the features of claims 3-6 and 8 are not even disclosed, these claims are not understood.

Claims 7-10 are method claims depending from article claims, which is indefinite.

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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9. Claims 3-6 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As these features are not even disclosed, it is not clear how and make and use the invention.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Nakajima et al.

Nakajima et al discloses an airbag 16 above a door opening (Figure 5) in a vehicle body in a folded situation (Figure 1) and inflated and unfurled downward. The airbag is fixed to a vehicle body by fitting through bracket 42 at 46 and 48. The bracket 42 positions a through-hole which bolt 39 fits through to fix the bracket to the vehicle body. The bracket 42 is below the airbag attached to and housed in the vehicle body (claim 1). Regarding claim 2, a hole for bolt 39 is provided in the vehicle body at the upper side or upper end of the bracket 42, and a protruded portion which can be fitted to the airbag is provided at the upper end of the bracket 42 at 46 as indefinitely recited.

***Conclusion***

11. Claims 3-10 are so indefinite that no determination of their patentability could be made.

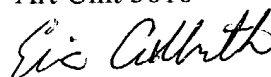
12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Eyeraider shows a rivet 34 in Figure 2. Sonnenberg, Miyahara et al, Yasuhara et al, Takahara and Hofmann et al show fittings below an airbag.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric D Culbreth  
Primary Examiner  
Art Unit 3616



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